

REMARKS

The Office Action of December 21, 2006 has been carefully reviewed and the claims amended in response thereto.

Information Disclosure Statement

The Applicant appreciates the Examiner's consideration of the submitted foreign reference EP1433893 provided in the Supplemental Information Disclosure Statement filed August 29, 2005.

Unlike reference EP1433893, which was in English, the second reference submitted in the Supplemental Information Disclosure Statement, reference EP0687439 appears to be entirely in German. It is understood that, at this time, this latter reference only has been placed in the application file but has not been considered as to the merits by the Examiner.

The Applicant does not have a copy of the translation of EP0687439 nor does the Applicant believe that an English language abstract is readily available for this patent. Our understanding of the significance of the patent is derived solely from an inspection of the figures which appear to show a dishwasher and a latch providing a release mechanism.

Applicant believes that the guidance about the contents of an Information Disclosure Statement with respect to including an English language abstract is found at 37 CFR 1.98(a)(3)(ii) which requires submission of translation only if a translation is in the custody or control of the Applicant, or readily available. Specifically, this rule requires submission of:

- (ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in §1.56(c).

Because, to the Applicant's knowledge, no such English abstract for this EP patent is readily available, the Applicant believes the requirements of 37 CFR 1.98(a)(3)(ii) have been met. Applicant submits herewith an English language abstract for related case

DE4420775 available at the EPO website for EP0687439 but makes no representation as to whether it accurately mirrors the abstract for EP0687439.

Drawings

Fig. 1 has been objected to as not being labeled as prior art. The Applicant believes that Fig. 1 properly depicts the outside of a novel dishwasher incorporating an inventive door closing latch mechanism, as indicated by the Description of the Drawings and the Detailed Description of the Preferred Embodiment in the present application, and thus that this figure cannot be considered prior art even though the full workings of the latch are not illustrated.

Fig. 1 has also been objected to as including reference characters (i.e., numbers "3" labeling a section line) that are not mentioned in the description. Accordingly paragraph [0032] has been amended to include a description of this section line.

Fig. 12 has also been objected to based on section lines numbers "13" and a similar amendment has been made to paragraph [0042] to provide proper reference to this section line.

Fig. 20 has been objected to for failure of the specification to refer to element 162 shown in that figure. Accordingly paragraph [0104] has been amended to indicate that the element 162 labels the circuit ground.

No new matter is believed to have been introduced by any of these amendments because the labeling would have been evident from context to one of ordinary skill in the art familiar with drafting conventions and electrical schematic symbols.

Claim Rejections--35 U.S.C. §112

Claims 11 and 18 have been rejected under 35 U.S.C. §112 , second paragraph, as being unclear with respect to what force is being measured.

It is believed that the force to be measured is properly indicated in these claims as a force "resisting closure of the door". The Applicant has nevertheless amended these claims to further indicate that the force must be one "resisting closure of the door by the electric actuator" indicating that the electric actuator itself cannot be the source of the

force resisting closure of the door. This force may be caused by cutlery or other material jamming the door open, for example, as described in paragraph [0095]:

[0095] It will be understood from this description that if micro switch 96 is not closed after conclusion of the retraction of linear actuator arm 51, this may indicate a jamming of the door 18 or failure in some part of the sealing mechanism and the door 18 may be in such cases also reopened by reversing actuation of linear actuator arm 51. Such jam may be caused, for example, by cutlery falling between the door and wash chamber before closing. Thus, the same mechanism may be used to provide both a response to jamming and a pull on the door 18 by a user..

Alternatively the force may be caused by a person pulling open on the door as described at paragraph [0094]:

[0094] Referring still to FIG. 17, after the door 18 is in the seal position 34, forward pressure along the longitudinal axis 53, for example, caused by a pulling of the towel bar 22, will cause strike plate 42 to pull slightly away from the lip 32 of the washing chamber 14. This is accomplished by a stretching extension spring 90 of the linear actuator arm 51 (shown in FIG. 15) such as allows forward sliding of the mounting plate 47 with respect to the support plate 67 on which the linear actuator is mounted. This sliding causes disengagement of the finger extension 94 from the operator of the micro switch 96 sending a signal to the timer/controller indicating that the user wishes to open the door. Generally, the process described with respect to FIGS. 6, 7, and 10 is reversed to release the door.

Thus, the Applicant believes that the force is both properly described in the claims as amended and supported by the specification.

Claims 10-11, 17-18, and 22 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement with respect to the term "force sensor".

The structure of the force sensor used to measure an opening force on the door is described in the specification at paragraph [0094]-[0096] referring generally to Figs. 15 and 17. This structure is the combination of microswitch 96 and the stretching of extension spring 90 described in paragraph [0095] as may be caused by "forward pressure along the longitudinal axis 53, for example, caused by a pulling of the towel bar 22" or a "by cutlery falling between the door and wash chamber before closing".

It is noted that the claims need not use the same language as found in the specification. See generally, MPEP § 2163 citing Martin v. Johnson ("the description need not be in ipsis verbis"). Further it is noted generally that the claims themselves are part of the specification and therefore can provide enablement by their own terms. Further, as noted at MPEP § 2163 "there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed and that the PTO has the burden of presenting evidence or reasons why a person skilled in the art would not recognize in the disclosure a description of the invention defined by the claims."

The Applicant does not understand the suggestion that a "force sensor" would not be understood to refer to a "sensor detecting force" but rather to "a plunger", but would be receptive to further explanation of or support for this position.

Claim Rejections 35 U.S.C. §102

Claims 1-4, 6, 8, 10-13, 15, and 17-23 have been rejected under 35 U.S.C. §102(b) over Archambault.

Claim 1 has been amended in light of this rejection to indicate both that the electric actuator moves the door "from the close position to the seal position" and that the electric actuator "compress[es] the gasket" in this process.

In contrast, the Archambault patent describes a dishwasher latch that operates only to open the door and which requires that the door be closed by hand. See for example, column 4, lines 28-32 describing manual closure of the door. This understanding of Archambault is consistent with column 3, lines 28-32 which notes that the door is spring-biased by pusher member 48 to open. Thus, Archambault fails to teach an electric actuator that may move the door from the close position to the seal position to compress the gasket around the door as claimed by claim 1.

With respect to claim 8, the Examiner has identified "push buttons" of Archambault as electric actuators but it is not clear how the Examiner believes that push buttons can "releasably engage structure of the washing chamber to move the door between the close position and the seal position" as claimed. Accordingly it is believed

that there has been no *prima facie* case made out for a rejection of claim 8 and a rejection of claim 8 is respectfully traversed.

The rejection of claim 10 and 17 and 22 over Archambault is respectfully traversed. Archambault fails to teach a sensor sensing an opening force on the door to cause the electric actuator to move the door from the seal position toward the open position. Archambault notes that a manually operated lever may be provided to open the door (see column 4, line 49 through 56) however this is clearly not an opening of the door by any electric actuator but rather by hand with a spring assist.

With respect to claims 11 and 22, Applicant respectfully disagrees that plunger 86 described by Archambault and being a component of a solenoid is a force sensor, but believes that plunger 86 would better be characterized as part of a mechanical actuator. Nevertheless, as amended both of these claims require the force sensor to cause the electric actuator to move the door. The Examiner has identified push buttons as the electric actuator and it is clear that the plunger 86 does not communicate with push buttons and that the push buttons do not open a door or close the door. Accordingly the rejection of these claims is respectfully traversed.

Claim 12 has been amended to indicate that the claimed electric actuator is an electric motor actuator and thus may be further distinguished from Archambault which uses a solenoid to release a catch. Archambault teaches away from the present invention by describing the use of the solenoid which is practically limited to opening a door and if applied to closing a door (not taught by Archambault) would require additional structure not taught or enabled to accommodate a relatively large venting to sealing distance.

Claim 20 has been amended to indicate that the electric door actuator responds to a signal from the timer/controller to automatically close the door. It is apparent from the description in Archambault that the Archambault device relies upon manual closure of the door and thus does not teach this automatic closure feature.

Generally the Archambault patent, which teaches only the release of the door, fails to teach or suggest the possibility of using an electric actuator to compress a sealing gasket without effort by the user. Further Archambault fails to teach or suggest the present invention's providing only limited door closure between a closed and sealing

position, greatly simplifying the closure mechanism. Further Archambault fails to teach or suggest solutions to problems of closing a door in the presence of possible obstacles or attempts by the consumer to open the door during the closure cycle. For these reasons it is believed that the present invention is neither suggested by, nor obvious in light of, the Archambault reference.

Claim Rejections 35 U.S.C. § 103

The rejection of claims 5, 14, and 24-25 under 35 U.S.C. § 103 over Archambault in view of Burnett is respectfully traversed. With respect to claims 5 and 14, the Applicant agrees in principle that one might be motivated to provide a switch and hence a signal device per Burnett for a door that was fully open and could present "injury to the shin or lower leg by the user walking into the open dishwasher". But Archambault clearly teaches a released door that does not swing open to present such a leg hazard when the door is released but opens only a small amount to provide for venting, the reason the door is automatically opened. Thus Archambault teaches away from the motivation suggested by the Examiner. For this reason, given that the proposed switch and LED system suggested by the Examiner would be dysfunctional in Archambault (signaling that the door is in a hazardous position, when it is not) the combination proposed by the Examiner is improper.

With respect to claims 24 and 25, even accepting the combination of Archambault and Burnett, the combination fails to teach any apparatus or structure to delay the sealing of the door to prevent surge pressure buildup after the door is put in the closed position during the washing cycle. The Examiner has offered no citations for these elements and thus it is believed that a *prima facie* case for obviousness has not been made.

The rejection of claims 7 and 16 under 35 U.S.C. § 103 over Archambault in view of Ellingson is respectfully traversed. Claims 7 and 16 require a sensor sensing a door in a "close position" and moving the door from the close position to a seal position. Ellingson teaches sensing the position of the door before locking the door, but after the position is sensed there is no movement of the door, only movement of a lock, and certainly no movement of the door under the influence of an electric actuator. Further, the terms "close position", "seal position" and "vent position" are defined in the parent

claims requiring distinct states of venting and sealing not present in the top loading clothes washer of Ellingson. Because Ellingson teaches a machine requiring no gasket, the motivation of the present invention allowing effortless closure of a door, through the sensing of a door in a near closed position prior to closing the lid is neither suggested nor taught. Similarly, Archambault provides no motivation for detecting the door before it is sealed to actuate a closing mechanism.

The rejection of claim 9 under 35 U.S.C. § 103 over Archambault is respectfully traversed. No structure has been identified in Archambault that meets the limitations of an electric actuator for closing the door. .

In light of these remarks and amendments, it is believed that claims 1-25 are now in condition for allowance and allowance is respectfully requested. The Examiner is encouraged to contact the undersigned if minor amendments are needed in the figures, specification, or claims to bring this case into allowance.

Very truly yours,

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